

TAM:DBS:mel:2000V00753

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

M. ASH-SHARIEF AL'ASKARI,	:	
Plaintiff	:	Civil No. 1:CV-00-1449
	:	(Caldwell, J.)
v.	:	(Smyser, M.J.)
	:	
KATHLEEN HAWKES, et al., ,	:	Electronically Filed
Defendants	:	

DEFENDANT'S MOTION TO EXTEND DEADLINE FOR
FILING DISPOSITIVE MOTIONS

Defendant Douglas Goldring, through counsel, moves the Court for an extension of the filing deadline for dispositive motions. In support of his motion, defendant avers the following:

1. Plaintiff, M. Ash-Sharief Al'Askari, is a former inmate incarcerated at the Allenwood Federal Correctional Institution in White Deer, Pennsylvania.

2. On August 14, 2000, Al'Askari filed a complaint pursuant to Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), against four BOP employees alleging violations of his due process rights and a denial of access to the courts.

3. On April 21, 2001, a motion to dismiss and for summary judgment was granted by the Court for plaintiff's failure to

exhaust his administrative remedies. An appeal to the Third Circuit Court of Appeals followed.

4. In an unreported opinion issued on January 13, 2003, the Third Circuit affirmed the District Court's Order to the extent it dismissed the complaint against three of the defendants. However, the District Court's decision to dismiss the access to courts claim against defendant Goldring was vacated and remanded for further proceedings.

5. On April 29, 2003, a Case Management Order was issued setting forth the deadlines for discovery and dispositive motions, among others. Discovery was ordered to be completed by August 25, 2003, and dispositive motions and supporting briefs were to be filed by September 25, 2003.

6. On August 21, 2003, Al'Askari filed a motion for enlargement of time to complete discovery. Al'Askari did not seek the concurrence of undersigned counsel in the filing of his motion. Nonetheless, the motion was subsequently granted and the deadline for completion of discovery was extended to October 15, 2003. The deadline for filing dispositive motions was not altered and remains September 25, 2003.

7. On September 24, 2003, the Government was notified, via facsimile from plaintiff, that he would be deposing defendant Goldring and two BOP employees on October 2, 2003.

8. Additionally, a motion by Al'Askari for leave to depose an incarcerated individual is presently pending before the Court.

9. In light of Al'Askari's pending discovery and the October 15, 2003, discovery deadline, defendant Goldring requests a thirty-day extension of time from the discovery deadline, to file any dispositive motions and supporting briefs.

10. Counsel certifies that, in an effort to comply with Local Rule 7.1, we have sent plaintiff a letter asking him to inform the Court whether he concurs in defendant's motion. A copy of the letter is attached for the Court's convenience.

WHEREFORE, for the reasons stated above, defendant Goldring requests an enlargement of time until November 14, 2003, to file dispositive motions and briefs.

Respectfully submitted,

THOMAS A. MARINO
United States Attorney

s/ D. Brian Simpson
D. BRIAN SIMPSON
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Dated: September 25, 2003

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That on September 25, 2003, she served a copy of the attached

**DEFENDANT'S MOTION TO EXTEND DEADLINE FOR
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by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

Addressee:

M. Ash-Sharief Al'Askari
5737 N. 12th Street
Philadelphia, PA 19141

s/ Michele E. Lincalis
MICHELE E. LINCALIS
Paralegal Specialist